

1 **Law Office of Sam Miorelli, P.A.**
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7 *Pro Se Objector*

8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
12

13 IN RE: CARRIER IQ, INC., CONSUMER) Case No.: 12-md-2330-EMC
14 PRIVACY LITIGATION)
15) **DECLARATION OF SAM A. MIORELLI,**
16) **E.I., ESQ. IN SUPPORT OF**
17) **STIPULATION AND [PROPOSED]**
18) **ORDER RE APPEAL**
19)
20 _____

21 I, Sam A. Miorelli, E.I., Esq., declare pursuant to 28 U.S.C. § 1746 as follows:

22 1. I am a sole practitioner through the Law Office of Sam Miorelli, P.A. and am a *pro*
23 *se* objector to the settlement in the above-captioned matter. I have personal knowledge of the facts
24 stated in this declaration and, if called as a witness, I could and would testify competently to them.

25 2. My lodestar for work performed on the appeal and settlement is \$30,136.60, and the
26 Law Office of Sam Miorelli, P.A. has incurred \$1,182.87 in unreimbursed expenses, as set forth in
27 more detail below.

28 3. After the Court approved the settlement, I reviewed that order and decided to appeal.
I filed my notice of appeal, addressed a procedural issue at the appellate court regarding the post-
29 approval motion practice, and began discussions with the 9th Circuit mediator. I also conducted
extensive legal research and writing to prepare my Opening Brief and the associated filings.
Through the 9th Circuit's receipt of the paper copies of my Opening Brief and Excerpts of Record, I
worked 67.7 hours.

30 4. After filing the Opening Brief, negotiations continued. Eventually they resulted in a
31 settlement of the appeal. Through execution of the settlement I worked an additional 9.4 hours.

1 5. Since the settlement was executed there has been additional work to prepare the
 2 filings, correspondence with the 9th Circuit Mediator, and further telephone conferences and other
 3 work involving the other parties. That work constituted an additional 10.0 hours.

4 6. In total, I have worked 87.1 hours on the appeal and its settlement. This amount of
 5 time spent on the briefing was similar to the amount of time I have spent on litigation of other
 6 appeals of consumer class action objection cases where I was representing a client instead of
 7 proceeding *pro se*.

8 7. I am a lawyer with 5 years of experience, and as a result, I believe my hourly rate of
 9 \$346 is fair. That belief is informed by the hourly rates claimed and approved by the Court in this
 10 case for Class Counsel. (Dkt 424 at 23-25). The average hourly rate billed by Class Counsel was
 11 \$519 per hour, 50% higher than my normal hourly rate. Independent of this case I am also informed
 12 in setting my fee by the fee I charged when I was a full-time appellate litigator from 2012-2013
 13 when my rate was \$350 per hour at Brownstone, P.A. with offices in Winter Park, FL. This is
 14 verified by the current U.S. Attorney's Office Matrix for 2017-2018 which indicates an hourly rate
 15 of \$346 per hour for attorneys with 4-5 years of experience.

16 8. **At my hourly rate of \$346 per hour, my total lodestar for the appeal and its**
 17 **settlement is \$30,136.60.** The time figures described in this declaration come from my
 18 contemporaneous, tenth-of-an-hour-based time records maintained by the Law Office of Sam
 19 Miorelli, P.A. in the ordinary course of business. They reflect all hours worked on tasks related to
 20 the appeal and its settlement. A detailed report of my work performed on the appeal and its
 21 settlement will be made available for the Court's *in camera* review if requested.

22 9. The Law Office of Sam Miorelli, P.A. incurred the following unreimbursed expenses
 23 related to the appeal and its settlement, as follows:

| Expense Type | Amount |
|--|--------------------|
| Court Fees | \$ 505.00 |
| PACER | \$ 40.80 |
| FedEx / USPS | \$ 180.57 |
| Printing (charged at 11 th Circuit-approved rate of 15¢/page) | \$ 456.00 |
| TOTAL | \$ 1,182.37 |

10. The Law Office of Sam Miorelli, P.A. has discounted rates for FedEx and USPS and the costs reflected are at those lower, discounted rates. The costs reflected above are the normal costs which if I were a paying client of my firm, I would be required to reimburse.

11. Subtracting costs, the settlement amount agreed represents a 21% reduction from my lodestar for the appeal and its settlement.

Under penalty of perjury pursuant to 28 U.S.C. § 1746, I declare the foregoing is true and correct.

DATED: March 8, 2018.

/s/ Sam A. Miorelli
Sam A. Miorelli, E.I., Esq.